

PATENT COOPERATION TREATY

JULY 26 2004
DATE ENTERED T10.26/7

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

FJ CLEVELAND

Attn. Crump, Julian R.J.

40-43 Chancery Lane

London WC2A 1JQ

UNITED KINGDOM

FJ CLEVELAND

26 JUL 2004

RECEIVED

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing (day/month/year)	26/07/2004
Applicant's or agent's file reference JUL/SS/41823	FOR FURTHER ACTION See paragraphs 1 and 4 below
International application No. PCT/GB2004/001181	International filing date (day/month/year) 19/03/2004
Applicant MOLINS PLC	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
- ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until **30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentaan 2
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Authorized officer

Marion Salaün

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

- 1 [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
- 2 [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
- 3 [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled, new claims 15, 16 and 17 added; all other claims unchanged."
- 4 [Where various kinds of amendments are made]:
"Claims 1-10 unchanged, claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14, claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference JRJC/SS/41823	FOR FURTHER ACTION <small>see Form PCT/ISA/220 as well as, where applicable, item 5 below.</small>	
International application No. PCT/GB2004/001181	International filing date (day/month/year) 19/03/2004	(Earliest) Priority Date (day/month/year) 20/03/2003
Applicant MOLINS PLC		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 5 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box II).

3. ☐ **Unity of invention is lacking** (see Box III).

4. With regard to the **title**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☐ the text is approved as submitted by the applicant.

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regards to the **drawings**,

a. the figure of the **drawings** to be published with the abstract is Figure No. 1

☐ as suggested by the applicant.

☒ as selected by this Authority, because the applicant failed to suggest a figure.

☐ as selected by this Authority, because this figure better characterizes the invention.

b. ☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/GB2004/001181

Box No. IV Text of the abstract (Continuation of item 5 of the first sheet)

A method of determining one or more physical properties of a rolled smoking article (10) or filter rod (14) is disclosed, said method comprising disposing a rolled smoking article or filter rod (14) within a field of view, illuminating said field of view, imaging said rolled smoking article or filter rod within said field of view to form an image, and analysing said image to determine one or more physical properties of said rolled smoking article or filter rod. Preferably said image is a digital image, which may be electronically processed to determine said one or more physical properties. Said one or more physical properties may include the length (e) of the rolled smoking article or filter rod, or its mean diameter (d), ovality, circumference, roundness or shape. The invention also provides apparatus for performing such method comprising imaging means defining the field of view, said imaging means being adapted for imaging a rolled smoking article or filter rod in said field of view, means for positioning a smoking article or filter rod in said field of view, illuminating means for illuminating said field of view, and processing means for processing said image to determine one or more physical properties of a smoking article or filter rod in said field of view.

INTERNATIONAL SEARCH REPORT

International Application No
PCT/GB2004/001181

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 G01N21/88 A24C5/34

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A24C G01N G01B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 075 882 A (MULLINS MICHAEL J ET AL) 13 June 2000 (2000-06-13) column 4, line 6-67 column 7, line 65 -column 11, line 18; figures ---	1-12, 24-37, 39-41, 44-50, 57-60, 65-69
X	US 5 414 270 A (HENDERSON CALVIN W ET AL) 9 May 1995 (1995-05-09) the whole document --- -/--	1-4, 32-38, 40,42,43

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- * & * document member of the same patent family

Date of the actual completion of the international search

29 June 2004

Date of mailing of the international search report

26/07/2004

Name and mailing address of the ISA

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NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
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Authorized officer

MARZANO MONTEROSSO

INTERNATIONAL SEARCH REPORT

International Application No

PCT/GB2004/001181

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	EP 0 500 301 A (PHILIP MORRIS) 26 August 1992 (1992-08-26) column 5, line 12 -column 7, line 26; figures ---	1-8, 32-37
X	EP 1 176 092 A (FOCKE & CO) 30 January 2002 (2002-01-30) paragraph '0013! - paragraph '0014!; figures ---	1, 4, 32, 36, 37
X	US 6 169 600 B1 (LUDLOW JONATHAN) 2 January 2001 (2001-01-02) the whole document ---	1-5, 32-36
X	EP 0 812 548 A (GD SPA) 17 December 1997 (1997-12-17) abstract; figures ---	1, 32, 35
X	EP 0 548 695 A (JAPAN TOBACCO INC ;TOSHIBA ENGINEERING CORP (JP)) 30 June 1993 (1993-06-30) the whole document -----	1, 32

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/GB2004/001181

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 6075882	A	13-06-2000	NONE	
US 5414270	A	09-05-1995	NONE	
EP 0500301	A	26-08-1992	EP JP	0500301 A1 5087535 A 26-08-1992 06-04-1993
EP 1176092	A	30-01-2002	DE EP	10037098 A1 1176092 A1 07-02-2002 30-01-2002
US 6169600	B1	02-01-2001	AU EP WO	1627100 A 1151283 A1 0031520 A1 13-06-2000 07-11-2001 02-06-2000
EP 0812548	A	17-12-1997	IT DE DE EP JP US	80960311 A1 69705996 D1 69705996 T2 0812548 A1 10052247 A 6181372 B1 10-12-1997 13-09-2001 04-04-2002 17-12-1997 24-02-1998 30-01-2001
EP 0548695	A	30-06-1993	JP JP DE DE EP US	2756386 B2 5180777 A 69230878 D1 69230878 T2 0548695 A2 5392359 A 25-05-1998 23-07-1993 11-05-2000 17-08-2000 30-06-1993 21-02-1995

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/001181

International filing date (day/month/year)
19.03.2004

Priority date (day/month/year)
20.03.2003

International Patent Classification (IPC) or both national classification and IPC
G01N21/88, A24C5/34

Applicant
MOLINS PLC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Authorized Officer

MARZANO MONTEROSSO

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/001181

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/001181

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. IV Lack of unity of invention

1. ☐ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:

☐ paid additional fees.

☐ paid additional fees under protest.

☐ not paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is

☐ complied with

☒ not complied with for the following reasons:

see separate sheet

4. Consequently, this report has been established in respect of the following parts of the international application:

☒ all parts.

☐ the parts relating to claims Nos.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/001181

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	13-23,51-56,61-64,70
	No: Claims	1-12,24-50,57-60,65-69
Inventive step (IS)	Yes: Claims	
	No: Claims	1-70
Industrial applicability (IA)	Yes: Claims	1-70
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item IV

Lack of unity of invention

1. The subject-matter of independent claim 1 is already known/not inventive (see the grounds for this objection). The requisite unity of invention (Rule 13.1 PCT) therefore no longer exists inasmuch as a technical relationship involving one or more of the same or corresponding special technical features in the sense of Rule 13.2 PCT does not exist between the subject-matter of the following groups of dependent claims:
 - Claims 5-12, relating to axial measurements,
 - claims 13-18, relating to diameter measurements,
 - claims 19-23 relating to determination of the wrapping orientation, and
 - claims 24-31 relating to back-light illumination.
2. An analogous objection is raised with respect to independent claim 32 and the corresponding groups of dependent claims.

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following documents:

D1: US-A-6 075 882 (MULLINS MICHAEL J ET AL) 13 June 2000 (2000-06-13)
D2: US-A-5 414 270 (ENDERSON CALVIN W ET AL) 9 May 1995 (1995-05-09)
2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 and 32 is not new in the sense of Article 33(2) PCT.
- 2.1 The document **D1** discloses a method of determining one or more physical properties of a rolled smoking article or filter rod, said method comprising disposing a smoking article within a field of view, illuminating said field of view, imaging said article, and analysing said image to determine one or more physical properties of said rolled smoking article or filter rod (see abstract, as well as the passages cited in the search report).

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/GB04/01181

- 2.2 The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claim 32, which therefore is also considered not new.
- 2.3 The attention of the applicant is drawn to the fact that claims 1 and 32 are so broadly formulated that their features are also disclosed in document D2 as well as in the other documents cited in the search report. Thus the subject matter of said claim cannot be considered novel against said documents.
- 2.4 Dependent claims 2-31 and 32-69 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and inventive step, see documents D1 and D2 and the corresponding passages cited in the search report.
3. The subject matter of independent claim 70 appears to relate to an apparatus comprising features of claim 32 combined with features which are already claimed in several dependent claims.
- Beside the fact that the drafting of claim 70 as an independent claim does not appear to be justified for reasons of conciseness, the subject matter of claim 70 is not considered inventive over the disclosure of D1, because relating as stated above to a combination of known or not inventive features in one single apparatus, without any surprising technical effect.